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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/247,209	02/09/1999	PAUL PAZANDAK	044557.0000	7376

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EXAMINER

SHAH, SANJIV

ART UNIT PAPER NUMBER

2176

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/247,209
Filing Date: February 09, 1999
Appellant(s): PAZANDAK, PAUL

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/19/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claim 3 being a sole claim stand or fall together.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. (Patent # 6,083,276). This rejection is set forth in a prior Office Action, mailed on 9/15/2003.

(11) Response to Argument

Applicant argues that examiner is using hindsight and does not have grounds from within Davidson for rejection. Specifically applicant argues that "Davidson addresses only creation of parse tree when parsing an XML document whereas instant invention **describes** an entirely different method and system of parsing an XML document, that does not involve any parse tree creation. Applicant further argues that Davidson fails to teach any alternative to parse tree creation.

Examiner disagrees with applicant's arguments. Specifically, in response to applicant's arguments it has been noted that the features upon which applicant relies and argues (i.e., "no parse tree is created or necessary to achieve the result of a particular type-specific object from an XML document) are not recited in **claimed** invention. Claim 3 does not recite positive limitation of parsing without creating parse tree. The broadest reasonable interpretation is that parsing is performed by associating the document with call, calling the code and creating the type specific object from the XML object.

Applicant uses the term "type-specific object" in the claims to mean an instance of a class. Refer to applicant's arguments paper # 9, at page 2(top).

As cited in the body of rejection Davidson teaches parsing the XML document, creating the parse tree and transforming the parse tree into a plurality of components corresponding to instances of classes (i.e. claimed type-specific object) in an application framework as described in the abstract. It is well known that the parsing is performed by a program or a code which calls functions or sub-programs. Davidson teaches calling a functions as described in table 1 col. 17-18) transforming a parse tree using code into corresponding instances of classes is described in col. 22, lines 15-24. Therefore it is obvious that the document is associated with call and parsing code is executed to obtain corresponding instance of classes (i.e. type-specific object). Therefore Davidson teaches all the claimed invention.

Even though Applicant is partially right in arguing that Davidson teaches additional step of creating the parse tree to obtain corresponding instance of classes while applicant's invention does not create a parse tree, the ***claimed invention*** does not positively recite parsing without creating the parse tree and open-ended claimed language "comprising the steps of" includes all alternative methods and therefore Davidson is interpreted to broadly teach claimed invention. Therefore examiner's rejection is proper.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Sanjiv D. Shah
Primary Examiner
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Sanjiv Shah
February 7, 2005

Conferees



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